

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SHAWN WOODWARD,

Plaintiff,

-v-

9:18-CV-83

J. GORI, GELETA, CITUK,
J. JULIANO, and D. BIDWELL,

Defendants.

APPEARANCES:

OF COUNSEL:

SHAWN WOODWARD
Plaintiff, Pro Se
26 South Pennsylvania Ave.
Atlantic City, NJ 08401

HON. LETITIA JAMES
New York State Attorney General
Attorneys for Defendants
The Capitol
Albany, NY 12224

RACHAEL OUIMET, ESQ.
Ass't Attorney General

DAVID N. HURD
United States District Judge

ORDER ON REPORT & RECOMMENDATION

On January 19, 2018, *pro se* plaintiff Shawn Woodward (“plaintiff”) filed this 42 U.S.C. § 1983 action alleging that defendants violated his civil rights while he was an inmate in the custody of the New York State Department of

Corrections and Community Supervision (“DOCCS”) at Greene Correctional Facility (“Greene C.F.”) in Cossackie, New York. Dkt. No. 1. Along with his complaint, plaintiff also moved for leave to proceed *in forma pauperis* (“IFP Application”), Dkt. Nos. 2, 3, which was granted after an initial review of the pleading. Dkt. No. 4. Thereafter, plaintiff amended his pleading multiple times seeking to remedy various defects in his claims. Dkt. Nos. 69, 84.

Plaintiff’s third amended complaint asserts 42 U.S.C. § 1983 claims against DOCCS officials named Gori, Bidwell, Juliano, Geleta, and Cituk. In particular, plaintiff’s operative complaint asserts: (i) First Amendment free exercise and retaliation claims against defendant Gori; (ii) First Amendment retaliation claims against defendants Bidwell and Juliano; an (iii) Eighth Amendment claims against defendants Gori, Geleta, and Cituk arising from a May 2017 incident; and (iv) an Eighth Amendment claim against defendants Bidwell and Juliano arising from a July 2019 incident. Dkt. No. 165 at 3.

On November 15, 2023, defendants Bidwell, Gori, and Juliano moved for summary judgment on plaintiff’s (i)–(ii) First Amendment claims against defendants Gori, Bidwell, and Juliano; and his (iv) Eighth Amendment claim against defendants Bidwell and Juliano.¹ Dkt. No. 147. After that motion

¹ Defendants did not move for summary judgment on plaintiff’s (iii) Eighth Amendment claims for excessive force against defendants Gori, Geleta, and Cituk arising from a May 2017 incident in which plaintiff contends that defendant Gori “choked and punched” him and defendants Geleta and Cituk, who were present for the alleged assault, failed to intervene to prevent the harm.

was fully briefed, Dkt. Nos. 149, 151, 152, U.S. Magistrate Judge Daniel J. Stewart advised by Report & Recommendation (“R&R”) that defendants’ partial motion be granted on August 15, 2024. Dkt. No. 165.

Neither party has lodged objections to Judge Stewart’s R&R, and the time period in which to do so has expired. *See* Dkt. No. 165. Thus, upon review for plain error, the R&R is accepted and will be adopted in all respects. *See* FED. R. CIV. P. 72(b).

Therefore, it is

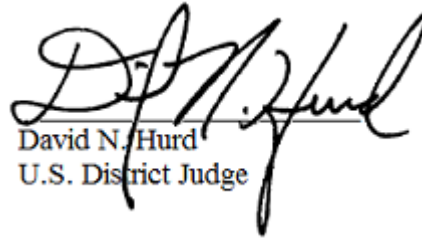
ORDERED that

1. The Report & Recommendation (Dkt. No. 165) is ACCEPTED;
2. Defendants’ partial motion for summary judgment (Dkt. No. 147) is GRANTED;
3. Plaintiff’s (i) First Amendment free exercise and retaliation claims against defendant Gori; (ii) First Amendment retaliation claims against defendants Bidwell and Julianano; and (iv) Eighth Amendment claim against defendants Bidwell and Julianano arising from an alleged July 2019 incident are DISMISSED;
4. Plaintiff’s (iii) Eighth Amendment claims against defendants Gori, Geleta, and Cituk arising from an alleged May 2017 incident REMAIN;
5. The Clerk of the Court is directed to TERMINATE defendants Bidwell and Julianano from the docket report in this action; and

6. Defendants' counsel is directed to file a status report advising as to the status of this action on or before September 30, 2024.

IT IS SO ORDERED.

Dated: September 10, 2024
Utica, New York.



David N. Hurd
U.S. District Judge